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**BEFORE THE
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. OT2005-48

ADRIAN BERNARD BAIRD
1636 Idlewood Road
Glendale, CA 91202

ACCUSATION

Occupational Therapy License No. OT 2060

Respondent.

Complainant alleges:

PARTIES

1. Heather Martin (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the California Board of Occupational Therapy, Department of Consumer Affairs (Board).

2. On or about September 10, 2002, the California Board of Occupational Therapy issued Occupational Therapy License No. OT 2060 to Adrian Bernard Baird (Respondent). The Occupational Therapy License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2008, unless renewed.

JURISDICTION

3. This Accusation is brought before the California Board of Occupational Therapy (Board), Department of Consumer Affairs, under the authority of the following laws.

1 All section references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2570.30 of the Code states:

3 "The board shall retain jurisdiction to proceed with any investigation, action or
4 disciplinary proceeding against a license, or to render a decision suspending or revoking a
5 license, regardless of the expiration, lapse, or suspension of the license by operation of law, by
6 order or decision of the board or a court of law, or by the voluntary surrender of a license by the
7 licensee."

8 5. Section 2570.28 states:

9 "The board may deny or discipline a licensee for any of the following:

10 "(a) Unprofessional conduct, including, but not limited to, the following:

11

12 "(c) Violating or attempting to violate, directly or indirectly, or assisting in or
13 abetting the violation of, or conspiring to violate, any provision or term of this chapter or any
14 regulation adopted pursuant to this chapter.

15

16 "(h) Committing any fraudulent, dishonest, or corrupt act that is substantially
17 related to the qualifications, functions, or duties of a licensee.

18

19 "(k) Falsifying or making grossly incorrect, grossly inconsistent, or unintelligible
20 entries in a patient or hospital record or any other record."

21

22 6. California Code of Regulations, title 16, section 4170 states:

23 "A violation of any ethical standard of practice constitutes grounds for
24 disciplinary action. Every person who holds a license, certificate or limited permit issued by the
25 board shall comply with the following ethical standards of practice:

26 "(a) Occupational therapy practitioners shall comply with state and federal laws
27 pertaining to discrimination.

28 "(b) Occupational therapy practitioners shall take reasonable precautions to avoid

1 imposing or inflicting harm upon the client or to his or her property.

2 “(1) Occupational therapy practitioners shall not exploit clients in any manner.

3 “(2) Occupational therapy practitioners shall avoid relationships or activities that
4 interfere with professional judgement and objectivity.

5 “(c) Occupational therapy practitioners shall collaborate with clients, caretakers or
6 other legal guardians in setting goals and priorities throughout the intervention process.

7 “(1) Occupational therapy practitioners shall fully inform the client of the nature,
8 risks, and potential outcomes of any interventions.

9 “(2) Occupational therapy practitioners shall obtain informed consent from clients
10 involved in research activities and indicate in the medical record that they have fully informed
11 the client of potential risks and outcomes.

12 “(3) Occupational therapy practitioners shall respect the client's right to refuse
13 professional services or involvement in research or educational activities.

14 “(4) Occupational therapy practitioners shall maintain patient confidentiality
15 unless otherwise mandated by local, state or federal regulations.

16 “(d) Occupational therapy practitioners shall perform occupational therapy
17 services only when they are qualified by education, training, and experience to do so.

18 “(1) Occupational therapy practitioners shall hold the appropriate credentials for
19 the services they provide.

20 “(2) Occupational therapy practitioners shall refer to or consult with other service
21 providers whenever such a referral or consultation is necessary for the care of the client. Such
22 referral or consultation should be done in collaboration with the client.

23 “(e) Occupational therapy practitioners shall comply with the Occupational
24 Therapy Practice Act, the California Code of Regulations, and all other related local, state, and
25 federal laws.

26 “(f) Occupational therapy practitioners shall provide accurate information about
27 occupational therapy services.

28 “(1) Occupational therapy practitioners shall accurately represent their credentials,

1 qualifications, education, experience, training, and competence.

2 “(2) Occupational therapy practitioners shall disclose any professional, personal,
3 financial, business, or volunteer affiliations that may pose a conflict of interest to those with
4 whom they may establish a professional, contractual, or other working relationship.

5 “(3) Occupational therapy practitioners shall refrain from using or participating in
6 the use of any form of communication that contains false, fraudulent, deceptive statements or
7 claims.

8 “(g) Occupational therapy practitioners shall report to the Board unprofessional
9 conduct as defined in Section 2570.28 of the Occupational Therapy Practice Act.

10 7. Section 118, subdivision (b), of the Code provides that the expiration of a
11 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
12 period within which the license may be renewed, restored, reissued or reinstated.

13 8. Section 125.3 of the Code provides, in pertinent part, that the Board may
14 request the administrative law judge to direct a licensee found to have committed a violation or
15 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
16 and enforcement of the case.

17 FIRST CAUSE FOR DISCIPLINE

18 (Falsifying Records)

19 9. Respondent is subject to disciplinary action under section 2570.28,
20 subdivision (k), in that, on or about July 27, 2005 through August 31, 2005, while employed as
21 an Occupational Therapist providing in-home services to patient G.M., Respondent created
22 falsified records to support fraudulent billing claims for services not rendered to the patient, as
23 follows:

24 A. Respondent, while an employee of Lemar Home Health Services, provided
25 occupational therapy services to patient G.M. in her home on:

26 July 27, 2005

27 August 2, 2005.

28 ///

1 B. On or about August 4, 2005, G.M. refused scheduled occupational therapy
2 services, as she was having too much pain. No therapy services were actually provided by
3 Respondent on that date, although G.M. signed a "daily visit record" showing a 1 hour visit on
4 August 4, 2005.

5 C. After August 4, 2005, no occupational therapy services were rendered by
6 Respondent to G.M., as she declined to schedule additional appointments.

7 D. Respondent nevertheless falsely reported to his employer that he had
8 provided in-home occupational services to G.M. on:

9 August 10, 2005

10 August 12, 2005

11 August 15, 2005

12 August 18, 2005.

13 To substantiate this claim, Respondent created and falsified "occupational therapy clinical
14 note(s)" for G.M., and forged the patient's signature on "daily visit record(s)" for the referenced
15 dates. Respondent further falsified "occupational therapy clinical note(s)" for August 4, 2004, to
16 substantiate his claim that therapy services were provided to G.M. on that date.

17 F. Respondent prepared and submitted said documents to his employer for
18 purposes of obtaining payment for and/or reimbursement by 'Medicare' for seven (7) in-home
19 occupational therapy sessions with patient G.M. when, in fact, he provided billable services to
20 the patient on only two (2) of the seven dates.

21 SECOND CAUSE FOR DISCIPLINE

22 (Fraudulent, Dishonest, or Corrupt Act)

23 10. Respondent is subject to disciplinary action under section 2570.28,
24 subdivision (h), in that, on or about July 27, 2005 through August 31, 2005, while employed as
25 an Occupational Therapist providing in-home services to patient G.M., Respondent engaged in
26 fraudulent and dishonest acts substantially related to the qualifications, functions and duties of a
27 licensed occupational therapist, in that he created falsified records to support fraudulent claims
28 for services not rendered to the patient, as more fully described in paragraph 9 above.

1 THIRD CAUSE FOR DISCIPLINE

2 (Violation of Ethical Standards of Practice)

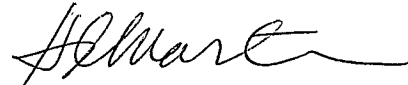
3 11. Respondent is subject to disciplinary action under section 2570.28,
4 subdivision (c), and on grounds of unprofessional conduct under section 2570.28, subdivision (a)
5 for violation of Title 16, California Code of Regulations section 4170, subdivision (f)(3), in that
6 on or about July 27, 2005 through August 31, 2005, Respondent made inaccurate, false,
7 fraudulent and deceptive communications about in-home occupational therapy services rendered
8 to patient G.M., by falsifying records to support fraudulent claims for services not rendered to the
9 patient, as more fully described in paragraph 9 above.

10 PRAYER

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein
12 alleged, and that following the hearing, the California Board of Occupational Therapy issue a
13 decision:

- 14 1. Revoking or suspending Occupational Therapy License No. OT 2060,
15 issued to Adrian Bernard Baird.
- 16 2. Ordering Adrian Bernard Baird to pay the California Board of
17 Occupational Therapy the reasonable costs of the investigation and enforcement of this case,
18 pursuant to Business and Professions Code section 125.3;
- 19 3. Taking such other and further action as deemed necessary and proper.

20
21 DATED: 4/26/07

22 
23 HEATHER MARTIN
24 Executive Officer
25 California Board of Occupational Therapy
26 Department of Consumer Affairs
27 State of California
28 Complainant

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